

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION**

STATE OF TEXAS; STATE OF LOUISIANA,

Plaintiffs,

v.

The UNITED STATES OF AMERICA; ALEJANDRO MAYORKAS, Secretary of the United States Department of Homeland Security, in his official capacity; UNITED STATES DEPARTMENT OF HOMELAND SECURITY; TROY MILLER, Senior Official Performing the Duties of the Commissioner of U.S. Customs and Border Protection, in his official capacity; U.S. CUSTOMS AND BORDER PROTECTION; TAE JOHNSON, Acting Director of U.S. Immigration and Customs Enforcement, in his official capacity; U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; TRACY RENAUD, Senior Official Performing the Duties of the Director of the U.S. Citizenship and Immigration Services, in her official capacity; U.S. CITIZENSHIP AND IMMIGRATION SERVICES,

Defendants.

Civ. Action No. 6:21-cv-00016

PLAINTIFFS' NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiffs submit the following Notice of Supplemental Authority to advise the Court of two recent decisions enjoining unlawful federal agency action related to immigration.

First, in *Texas v. Biden*, No. 2:21-cv-67, 2021 WL 3603341 (N.D. Tex. Aug. 13, 2021), the court held that DHS’s attempted rescission of the Migrant Protection Protocols violated the Administrative Procedure Act (“APA”) as well as the Immigration and Nationality Act (“INA”). *See Ex. A.* It both vacated the relevant agency memorandum and ordered the federal government “to enforce and implement MPP *in good faith*” until the identified legal defects could be cured. Ex. A at 52; 2021 WL 3603341 at *27.

Second, in *Texas v. United States*, No. 1:18-cv-68, 2021 WL 3025857 (S.D. Tex. July 16, 2021), the court held that DHS’s Deferred Action for Childhood Arrivals (“DACA”) policy was unlawful. *See Ex. B.* Judge Hanen “vacated” the “DACA Memorandum and the DACA program that it created” and “enjoined [DHS] from approving any new DACA applications and granting the attendant status.” Ex. B at 77; 2021 WL 3025857, at *41. The court entered a separate permanent injunction. *See Ex. C.*

Both decisions are relevant to many of the issues currently before this Court. Both courts held that (1) the plaintiff States had standing to challenge the federal government’s immigration policies, (2) review was appropriate under the APA, (3) the federal defendants had violated the APA and the INA, and (4) the plaintiff States were entitled to injunctive relief.

Date: August 16, 2021

Respectfully submitted.

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Attorney General of Texas

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CERTIFICATE OF COMPLIANCE

I certify that the total number of words in this response, exclusive of the matters designated for omission, is 248, as counted by Microsoft Word.

/s/ Patrick K. Sweeten
PATRICK K. SWEETEN

CERTIFICATE OF SERVICE

I certify that a true and accurate copy of the foregoing document was filed electronically (via CM/ECF) on August 16, 2021, which automatically serves all counsel of record who are registered to receive notices in this case.

/s/ Patrick K. Sweeten
PATRICK K. SWEETEN